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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,886

Applicant(s)

CLAASSEN ET AL.

Examiner

PATRICK A. RYAN

Art Unit

2427

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is made in response to Amendment After Non-Final Office Action ("Reply"); filed December 18, 2008. Applicant has amended Claims 1, 6, and 10; has added Claims 12, 13, and 14; and no claims have been canceled. As amended, Claims 1 through 14 are presented for examination.

2. In Office Action of July 31, 2008:

Claims 1-3, and 5-11 were rejected under 35 U.S.C. 102(b) as being anticipated by Thomas et al., United States Patent Application Publication (2002/0059621 A1).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas, in view of Knudson et al., United States Patent (6,016,141).

Miscellaneous

3. Applicant is advised that the Examiner's Art Unit number has changed from 2623 to 2427. All further correspondence should be directed to Art Unit 2427.

Response to Arguments

4. Applicant's arguments, see Reply Pages 6-7, with respect to Claims 1, and 12-14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 through 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis. United States Patent (7,493,646 B2).

7. In regards to Claim 1, Ellis teaches a method for a media-on-demand server of handling streaming of media based on at least one media request received from at least one user operated client (generally shown in Fig. 29, as introduced in Col. 28 Lines 23-31; with further reference to user selection facilitated by Video On Demand interface of Figs. 14-18, as introduced in Col. 16 Lines 46-56; and Server 56 of Fig. 1, as introduced in Col. 6 Lines 27-43),

wherein the server receives at least one media request from a particular user operated client and streams media to the user operated client at a predetermined time in the future (a media request is received during Step 330 and the user is provided with the opportunity to select a desired reminder and viewing time a Step 332, as shown in Fig. 29 and described in Col. 28 Lines 31-51; with further reference to the user interface of Figs. 24-26, as introduced in Col. 23 Lines 37-57),

wherein the handling of streaming comprises using a presence service adapted for determining a presence status of a user operating the client at or near to the predetermined time in the future (User Misses Program Selected For Archiving at Step 334, determined by an inactive user display status as described in Col. 29 Lines 32-61; with further reference to Col. 27 Lines 17-25) and only streaming user-requested media if the user has a predefined presence status at that instant of time (User Chooses to Watch Program at Step 334, as described in Col. 29 Lines 1-17).

8. In regards to Claim 2, Ellis teaches a method according to Claim 1, wherein the method comprises storing the media requests received by the user operated clients in a playback list, the list indicating the order in which the media requests are to be streamed (interactive list of programs scheduled to be recorded, as shown in Figs. 19-20, as described in Col. 20 Line 23—Col. 21 Line 23), and wherein a media request is kept in the playback list and only streamed if the user has the predefined presence status (User Chooses to Watch Program at Step 334, as described in Col. 29 Lines 1-17; with further reference to Archive-IF-Missed Option 286 of Fig. 24, as described in Col. 25 Lines 14-65).

9. In regards to Claim 3, Ellis teaches a method according to Claim 1, wherein the method comprises storing the media requests received by the user operated clients in a playback list, the list indicating media requests to be streamed at predefined time slots (List of Programs Scheduled to be Recorded 251 of Fig. 19a, as described in Col. 20 Lines 23-36; with further reference to reminder options of Fig. 24, as described in Col. 23 Line 37—Col. 24 Line 22), wherein a media request is only streamed at a predefined

time slot, if the user has the predefined presence status (User Chooses to Watch Program at Step 334, as described in Col. 29 Lines 1-17; with further reference to Archive-IF-Missed Option 286 of Fig. 24, as described in Col. 25 Lines 14-65).

10. In regards to Claim 4, Ellis teaches a method according to Claim 2, wherein the media request is cancelled by removing the media request from the playback list if the user does not have the predefined presence status (System Housekeeping Operations at Step 346, as described in Col. 30 Lines 41-48).

11. In regards to Claim 5, Ellis teaches a method according to Claim 1, wherein the predefined presence status indicates that the user is present at the client (User Chooses to Watch Program at Step 334, as described in Col. 29 Lines 1-17; with further reference to Archive-IF-Missed Option 286 of Fig. 24, as described in Col. 25 Lines 14-65).

12. In regards to Claim 6, Ellis teaches a media-on-demand server for handling streaming of media based on at least one media request received from at least one user operated client (Server 56 within Television Distribution Facility 14 of Fig. 1, as described in Col. 6 Line 24—Col. 7 Line 21), wherein the server comprises:

means for receiving at least one media request from a particular user operated client (Media request transmitted from User Equipment 18, 20, or 22 is received by Television Distribution Facility 14 by way of Communication Paths 26, 27, or 28, as described in Col. 4 Lines 55-62; with further reference to Col. 17 Lines 59-67),

means for streaming media at a predetermined time in the future to a rendering system operated by a user (video clips can be delivered to the User Equipment 18 from a server such as Server 36 or Server 56 of Fig. 1 by way of Communications Paths and Communications Network 34, as described in Col. 17 Lines 31-67; with further reference to on-screen options allowing the user to "time-shift broadcast programming" where the user can choose a suitable deferred time at which to receive a reminder for the program, as described in Col. 22 Lines 20-65);

means for determining a presence status of the user operating the client at or near to the predetermined time in the future (creation of archive copy on network during User Misses Program Selected For Archiving at Step 334, determined by an inactive user display status as described in Col. 29 Lines 32-61; with further reference to Col. 27 Lines 17-25).

13. In regards to Claim 7, Ellis teaches a media on demand server according to Claim 6, wherein the server further comprises: means for storing the media requests received by the user operated clients in a playback list, until the media has been streamed (interactive list of programs scheduled to be recorded, as shown in Figs. 19-20, as described in Col. 20 Line 23—Col. 21 Line 23; with further reference to Archive-IF-Missed Option 286 of Fig. 24, as described in Col. 25 Lines 14-65 and update of User's List of Recordings with archived content, as described in Col. 29 Line 62—Col. 30 Line 13).

14. In regards to Claim 8, Ellis teaches a media on demand server according to Claim 6, wherein the server further comprises: means for streaming user requested

media if the presence status of the user is a predefined presence status (video clips can be delivered to the User Equipment 18 from a server such as Server 36 or Server 56 of Fig. 1 by way of Communications Paths and Communications Network 34, as described in Col. 17 Lines 31-67; with further reference to User Chooses to Watch Program at Step 334, as described in Col. 29 Lines 1-17).

15. In regards to Claim 9, Ellis teaches a media-on-demand server according to Claim 6, wherein the means for determining the presence status of the user operating the client comprises a presence status client adapted for receiving a user specific presence status from a presence status server connected to the media-on-demand server (Television Distribution Facility 14 receives user status when User Chooses to Watch Program at Step 334, as described in Col. 29 Lines 1-17; with further reference to Archive-IF-Missed Option 286 of Fig. 24, as described in Col. 25 Lines 14-65).

16. In regards to Claim 10, Ellis teaches a user operated client to be used for requesting media to be streamed by a media-on-demand server (User Equipment 18, 20, or 22, as described in Col. 4 Lines 55-62; with further reference to Fig. 6, as described in Col. 11 Line 39—Col. 12 Line 20), wherein the client comprises:

means for transmitting a media request to the server (Input/Output Port 108, as described in Col. 11 Lines 43-50 and media request transmitted from User Equipment 18, 20, or 22 is received by Television Distribution Facility 14 by way of Communication Paths 26, 27, or 28, as described in Col. 4 Lines 55-62; with further reference to Col. 17 Lines 59-67);

means for indicating a presence status of a user to the server, the request relating to media to be streamed at a predetermined time in the future (User Misses Program Selected For Archiving at Step 334, determined by an inactive user display status as described in Col. 29 Lines 32-61; with further reference to Col. 27 Lines 17-25. Alternatively, User Chooses to Watch Program at Step 334, as described in Col. 29 Lines 1-17);

means for receiving and rendering media from the server (receiving television and music programming by way of Input/Output 108 for rendering on Display 114, as described in Col. 11 Line 39—Col. 12 Line 20), wherein the server is adapted for streaming user requested media at or near to the predetermined time in the future if the indicated presence status is a predefined presence status at that instant of time (User Chooses to Watch Program at Step 334, as described in Col. 29 Lines 1-17; with further reference to user provided with the opportunity to select a desired reminder and viewing time a Step 332, as shown in Fig. 29 and described in Col. 28 Lines 31-51).

17. In regards to Claim 11, Ellis teaches a user operated client according to Claim 10, wherein the means for indicating a presence status of the user operating the client comprises client status adapted for transmitting user specific presence status to a presence status server connected to the client (Television Distribution Facility 14 receives user status from User Equipment when User Chooses to Watch Program at Step 334, as described in Col. 29 Lines 1-17; with further reference to Archive-IF-Missed Option 286 of Fig. 24, as described in Col. 25 Lines 14-65).

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 12 through 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis, in view of Hassell et al. United States Patent Application Publication (2003/0154477 A1) hereinafter "Hassell".

20. In regards to Claim 12, Ellis teaches a method for a media-on-demand server of handling streaming of media based on at least one media request received from at least one user operated client (generally shown in Fig. 29, as introduced in Col. 28 Lines 23-31; with further reference to user selection facilitated by Video On Demand interface of Figs. 14-18, as introduced in Col. 16 Lines 46-56; and Server 56 of Fig. 1, as introduced in Col. 6 Lines 27-43),

wherein the server receives at least one media request from a particular user operated client and streams media to the user operated client (a media request is received during Step 330 and the user is provided with the opportunity to select a desired reminder and viewing time a Step 332, as shown in Fig. 29 and described in Col. 28 Lines 31-51; with further reference to the user interface of Figs. 24-26, as introduced in Col. 23 Lines 37-57),

wherein the handling of streaming comprises using a presence service adapted for determining a presence status of a user operating the client (User Misses Program

Selected For Archiving at Step 334, determined by an inactive user display status as described in Col. 29 Lines 32-61; with further reference to Col. 27 Lines 17-25),

wherein a media request is only streamed at a predefined time if the user has the predefined presence status at that time (User Chooses to Watch Program at Step 334, as described in Col. 29 Lines 1-17).

Ellis further teaches wherein the method comprises storing the media requests received by the user operated clients in a playback list (interactive list of programs scheduled to be recorded, as shown in Figs. 19-20, as described in Col. 20 Line 23—Col. 21 Line 23), the list indicating media requests to be streamed at future predefined times (List of Programs Scheduled to be Recorded 251 of Fig. 19a, as described in Col. 20 Lines 23-36; with further reference to reminder options of Fig. 24, as described in Col. 24 Lines). However Ellis does not explicitly teach that media within the list is streamed without further user input at that time.

In a similar field of invention, Hassell discloses a method and system for providing an interactive program guide that gives users the ability to store, manage, and maintain information associated with recorded programs in a directory (Abstract). The program guide also allows the user to define “super-programs” for playback (i.e. a playback list) of a sequence of stored programs (as described in Paragraphs [0009,0069]). Hassell teaches that to define a super-program, the user indicates programs that are to be included for playback in the super-program sequence and store the super-program for playback or editing at a later time (as described in Paragraphs [0075-0080]; with further reference to the interface of Figs. 12a-12b). Therefore, once

the user has request a particular super-program for playback, each program within the list is then presented to the without requiring the user to select the next program.

Both Ellis and Hassell disclose methods and systems for generating a playback list of user selected media. Ellis teaches allowing a user to achieve or schedule a given media-on-demand program for playback at later defined time, however at this later defined time the user is prompted with a number of options prior to the playback of the media content. Hassell teaches allowing a user to define a compilation of programs in a playback list in the form of a "super-program" that can then be played back to the user in a continuous fashion, without requiring further interaction from the user. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the archiving and scheduling method of Ellis with the super-program playback list of Hassell in order to minimize the interaction required by the user during the consumption of media content, which would allow the user to dedicate a greater amount of focuses to program content itself.

21. In regards to Claim 13, Ellis teaches a media-on-demand server for handling streaming of media based on at least one media request received from at least one user operated client (Server 56 within Television Distribution Facility 14 of Fig. 1, as described in Col. 6 Line 24—Col. 7 Line 21), wherein the server comprises:

means for receiving at least one media request from a particular user operated client (Media request transmitted from User Equipment 18, 20, or 22 is received by

Television Distribution Facility 14 by way of Communication Paths 26, 27, or 28, as described in Col. 4 Lines 55-62; with further reference to Col. 17 Lines 59-67),

means for streaming media to a rendering system operated by a user (video clips can be delivered to the User Equipment 18 from a server such as Server 36 or Server 56 of Fig. 1 by way of Communications Paths and Communications Network 34, as described in Col. 17 Lines 31-67),

means for determining a presence status of the user operating the client (creation of archive copy on network during User Misses Program Selected For Archiving at Step 334, determined by an inactive user display status as described in Col. 29 Lines 32-61; with further reference to Col. 27 Lines 17-25),

means for streaming user requested media at a predefined time if the presence status of the user is a predefined presence status at that time (on-screen options allowing the user to "time-shift broadcast programming" where the user can choose a suitable deferred time at which to receive a reminder for the program, as described in Col. 22 Lines 20-65).

means for storing the media requests received by the user operated clients in a playback list, until the media has been streamed (interactive list of programs scheduled to be recorded, as shown in Figs. 19-20, as described in Col. 20 Line 23—Col. 21 Line 23; with further reference to Archive-IF-Missed Option 286 of Fig. 24, as described in Col. 25 Lines 14-65 and update of User's List of Recordings with archived content, as described in Col. 29 Line 62—Col. 30 Line 13),

Ellis further teaches the list indicating media requests to be streamed at future predefined times (List of Programs Scheduled to be Recorded 251 of Fig. 19a, as described in Col. 20 Lines 23-36; with further reference to reminder options of Fig. 24, as described in Col. 24 Lines). However Ellis does not explicitly teach that media within the list is streamed without further user input at that time.

In a similar field of invention, Hassell discloses a method and system for providing an interactive program guide that gives users the ability to store, manage, and maintain information associated with recorded programs in a directory (Abstract). The program guide also allows the user to define "super-programs" for playback (i.e. a playback list) of a sequence of stored programs (as described in Paragraphs [0009,0069]). Hassell teaches that to define a super-program, the user indicates programs that are to be included for playback in the super-program sequence and store the super-program for playback or editing at a later time (as described in Paragraphs [0075-0080]; with further reference to the interface of Figs. 12a-12b). Therefore, once the user has request a particular super-program for playback, each program within the list is then presented to the without requiring the user to select the next program.

Both Ellis and Hassell disclose methods and systems for generating a playback list of user selected media. Ellis teaches allowing a user to achieve or schedule a given media-on-demand program for playback at later defined time, however at this later defined time the user is prompted with a number of options prior to the playback of the media content. Hassell teaches allowing a user to define a compilation of programs in a playback list in the form of a "super-program" that can then be played back to the user

in a continuous fashion, without requiring further interaction from the user. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the archiving and scheduling method of Ellis with the super-program playback list of Hassell in order to minimize the interaction required by the user during the consumption of media content, which would allow the user to dedicate a greater amount of focuses to program content itself.

22. In regards to Claim 14, Ellis teaches a user operated client to be used for requesting media to be streamed by a media-on-demand server (User Equipment 18, 20, or 22, as described in Col. 4 Lines 55-62; with further reference to Fig. 6, as described in Col. 11 Line 39—Col. 12 Line 20), wherein the client comprises:

means for indicating a presence status of a user to the server (User Misses Program Selected For Archiving at Step 334, determined by an inactive user display status as described in Col. 29 Lines 32-61; with further reference to Col. 27 Lines 17-25. Alternatively, User Chooses to Watch Program at Step 334, as described in Col. 29 Lines 1-17),

means for receiving and rendering media from the server (receiving television and music programming by way of Input/Output 108 for rendering on Display 114, as described in Col. 11 Line 39—Col. 12 Line 20), wherein the server is adapted for streaming user requested media at the predefined time if the indicated presence status is a predefined presence status at that time (User Chooses to Watch Program at Step 334, as described in Col. 29 Lines 1-17; with further reference to user provided with the

opportunity to select a desired reminder and viewing time a Step 332, as shown in Fig. 29 and described in Col. 28 Lines 31-51).

means for transmitting a media request to the server (User Misses Program Selected For Archiving at Step 334, determined by an inactive user display status as described in Col. 29 Lines 32-61; with further reference to Col. 27 Lines 17-25. Alternatively, User Chooses to Watch Program at Step 334, as described in Col. 29 Lines 1-17),

Ellis further teaches the request relating to media to be streamed at a future predefined time (List of Programs Scheduled to be Recorded 251 of Fig. 19a, as described in Col. 20 Lines 23-36; with further reference to reminder options of Fig. 24, as described in Col. 23 Line 37—Col. 24 Line 22). However Ellis does not explicitly teach that media within the list is streamed without further user input at that time.

In a similar field of invention, Hassell discloses a method and system for providing an interactive program guide that gives users the ability to store, manage, and maintain information associated with recorded programs in a directory (Abstract). The program guide also allows the user to define "super-programs" for playback (i.e. a playback list) of a sequence of stored programs (as described in Paragraphs [0009,0069]). Hassell teaches that to define a super-program, the user indicates programs that are to be included for playback in the super-program sequence and store the super-program for playback or editing at a later time (as described in Paragraphs [0075-0080]; with further reference to the interface of Figs. 12a-12b). Therefore, once

the user has request a particular super-program for playback, each program within the list is then presented to the without requiring the user to select the next program.

Both Ellis and Hassell disclose methods and systems for generating a playback list of user selected media. Ellis teaches allowing a user to achieve or schedule a given media-on-demand program for playback at later defined time, however at this later defined time the user is prompted with a number of options prior to the playback of the media content. Hassell teaches allowing a user to define a compilation of programs in a playback list in the form of a "super-program" that can then be played back to the user in a continuous fashion, without requiring further interaction from the user. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the archiving and scheduling method of Ellis with the super-program playback list of Hassell in order to minimize the interaction required by the user during the consumption of media content, which would allow the user to dedicate a greater amount of focuses to program content itself.

Conclusion

23. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PATRICK A. RYAN whose telephone number is (571)270-5086. The examiner can normally be reached on Mon to Thur, 8:00am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/P. A. R./

Examiner, Art Unit 2427

Wednesday, April 01, 2009

/Scott Beliveau/

Supervisory Patent Examiner, Art Unit 2427